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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,509	03/29/2001	Dennis Sunga Fernandez	FERN-P001C	8530
22877	7590	01/12/2005	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			VO, TUNG T	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/823,509	<b>Applicant(s)</b> FERNANDEZ ET AL.	
	<b>Examiner</b> TUNG T. VO	<b>Art Unit</b> 2613	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/27/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 09/27/2001 has been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 5-6, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bornn et al. (US 5,348,008).

Re claims 1 and 11, Bornn discloses in a console processing unit (1000 of fig. 2A) coupled via the internet to at least one fixed detector (4013 of fig. 2A) and at least one mobile sensor (24-25 of fig. 2A, e.g. the sensors are wearable to a mobile body so the sensors are mobilization), a data structure for representing a monitored object (video capture and data detected by the sensors are sent to the computer for displaying (4008 of fig. 2A), the data structure comprising:

an object identifier (4008 of fig. 2A, e.g. the computer displays an image of a person (1000 of fig. 2A) and identifies the person name, status, and medical records) ;

a first object location and a time monitored at such location, provided by a detector coupled to the console processing unit (4013 of fig. 2A, e.g. the camera (4013) is capturing the image of the person at the observable location and time for the computer (4008) to identify that person based on his or her status); and

a second object location and a time monitored at such location, provided by a sensor coupled to the console-processing unit (24 and 25 of fig. 2A, e.g. the sensors in proper physical orientation with respect to the patient's body as second object location is monitored by the sensors) .

Re claim 2, Bornn further discloses that the person (1000 of fig. 1) can make a schedule with the central office (4000 of fig. 2A) for physically check up at home or at central office, wherein Born specifically discloses a scheduled object location and a time scheduled for such location (see Appendix A1-Appendix A3).

Re claim 3, Bornn further discloses a position signal being generated by the detector coupled to the monitored object when such object is moveable within an observable range (4013

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of fig. 2A0, e.g. the camera can detect the person who is movable within the observable range), a visual signal being generated by the sensor uncoupled to such object in the observable range (24 and 25 of fig. 2A, e.g. the sensors are used to monitor physiological conditions that can be displayed on the computer (4008 of fig. 2A), visual signal))

Re claim 5, Bornn further discloses the computer inherently has a software agent associated with the monitored object accesses a database (4008, 4002, and 5000 of fig. 2A and MEMORY AND DISPLAY OF THE PERSON BASE LINE, PRE-EVENT, EVENT DATA AND REAL-TIME DATA of fig. 2B).

Re claim 6, Bornn further discloses the object identifier (4008 of fig. 2A, e.g. the computer comprises the person status such as image of the person, names, medical records) comprises an object name, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio broadcast signal.

Re claim 8, Bornn further discloses the monitored object is monitored temporarily using an extrapolated or last-stored positional or visual signal (4008 and 4006 of fig. 2A, e.g. the interface (4006) temporarily stores the patient data and visual image signal captured by the camera (4013 of fig. 2A)).

Re claim 9, Bornn further discloses the monitored object is authenticated according to a voice pattern, a fingerprint pattern, a handwritten signature, or a magnetic or smartcard signal (AUDIOSTONE AND SYNTHESIZED VOICE OPTIONS FOR ALERTS AND SYSTEM STATUS IN PATIENT UNIT (1000 of fig. 2B), see also 1030 of fig. 11).

Re claim 10, Bornn further discloses the monitored object is provided an electronic file comprising a book, a greeting card, a news report a sports report a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction (fig. 8A-8C).

4. Claims 1, 3, 5-6, 8, and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Khosla (US 6,080,063).

Re claims 1 and 11, Khosla discloses in a console processing unit (140, 142, 144 of fig. 1) coupled via the internet (130 of fig. 1) to at least one fixed detector (230 of fig. 2) and at least one mobile sensor (200, 220 of fig. 2, e.g. the position and speed sensors can be built in the vehicle that is moving one location to another (mobile); see also col. 3, line 60-col. 4, line 22, e.g. the helmet cameras is also be wore to provide the image of location) a data structure for representing a monitored object, the data structure comprising:

an object identifier (140 of fig. 3, CPU 300 can identify how fast the car goes and which car is ahead);

a first object location and a time monitored at such location, provided by a detector coupled to the console processing unit (230 of fig. 2, e.g. the camera is mounted above the live event in a blimp to provide a bird's view of live event); and

a second object location and a time monitored at such location, provided by a sensor coupled to the console-processing unit (GPS sensor 200, Speed sensor 220 of fig. 2, e.g. the GPS is built in the car to provide the car's position; see also col. 4, lines 19-22, e.g. the helmet cameras capture images at different location during racing).

Re claim 3, Khosla further discloses a position signal being generated by the detector coupled to the monitored object when such object is moveable within an observable range (230 of fig. 2), a visual signal being generated by the sensor uncoupled to such object in the observable range (the helmet cameras, col. 4, lines 19-22).

Re claim 5, Khosla further discloses the CPU (300 of fig. 3) has a software agent associated with the monitored object accesses a database (330 of fig. 3).

Re claim 6, Khosla further discloses the object identifier (300 and 330 of fig. 3) comprises an object name, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio broadcast signal.

Re claim 8, Khosla further discloses the monitored object is monitored temporarily using an extrapolated or last-stored positional or visual signal (last-stored positional in the memory (330 of fig. 3) for simulating the live event).

Re claim 10, Bornn further discloses the monitored object is provided an electronic file comprising a book, a greeting card, a news report a sports, a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction (live view image on the display 380 of fig. 3).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bornn et al. (US 5,348,008) as applied in claims 1 and 6, and further in view of Kennedy, III et al. (US 6,301,480).

Re claims 4 and 7, Bornn teaches and suggests the wearable communication unit (1000 of fig. 2A) associated with the remote patient that is detected by the first detector for observing the patient when such remote patient is movable within an observable range (4013 of fig. 2A) but Born does not particularly teach a mobile communication unit comprises an accelerometer, and a modification according a rule set as claimed.

However, Kennedy teaches a mobile communication unit (12 of fig. 1) comprises an accelerometer and personal health sensor, and modification according a rule set (col. 3, lines 5-19). Therefore, taking the combined teachings of Bornn and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the system of Born for the same purpose of communicating between the remote patient and central station fast and more accuracy. Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services. These services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

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***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sekine et al. (US 5,963,148) discloses a road situation perceiving system.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUNG T. VO whose telephone number is 703-308-5874. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TUNG T. VO**  
**PATENT EXAMINER**

T.Vo

**TUNG T. VO**  
**Primary Examiner**  
**Art Unit 2613**